



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/956,277	10/23/97	ANDRULIS	P ANDRU-12-C2

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HM42/0501

EXAMINER

GOLDBERG, J

ART UNIT

PAPER NUMBER

1614

DATE MAILED: 05/01/98

05/01/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/956,277

Applicant(s)
Andrulis

Examiner
Jerome D. Goldberg

Group Art Unit
1614



☒ Responsive to communication(s) filed on Mar 2, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) 3, 5-11, and 13-20 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, 4, 12, and 21 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Claims 3, 5-11 and 13-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected ^{invention}, the requirement having been traversed in Paper No. 2.

Applicants' remarks are noted but the other enhanced combination will support other patents, moreover the RO-24-7429 is in Class 514/221 while AZT ^{is} in Class 514/50.

Claims 1 and 2 are being examined as they read on the elected invention.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention

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dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 4, 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Makonkawkeyoon et al. reference taken with the Pardee et al. patent. The Makonkawkeyoon et al. reference teaches thalidomide for treating HIV. The Pardee et al. patent teaches R_O-24-7429 for treating HIV. In view of this, one skilled in the art would be motivated to combine the two anti-HIV drugs for their additive effect. Claims directed to a showing of greater than the additive effect would overcome this rejection.

Claims 1, 2, 4, 12 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 12 and 21 are improperly drawn to the same composition. Correction is required. Claims 1, 2, 4, 12 and 21 should recite the amounts of the active agents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner J.D. Goldberg whose telephone

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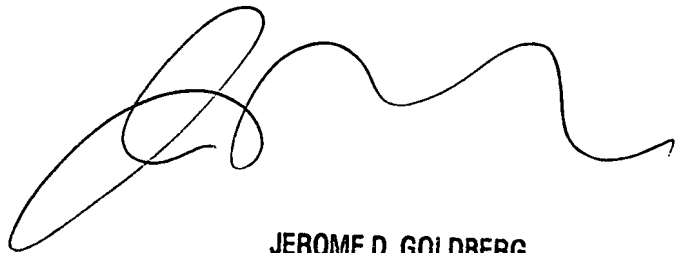
number is (703) 308-4606. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Cintins, can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

GOLDBERG; aco

April 30, 1998

A handwritten signature in black ink, appearing to read 'J. Goldberg', with a large loop at the end.

**JEROME D. GOLDBERG
PRIMARY EXAMINER
GROUP 1200**